



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: T.J. O'Brien Company, Inc.--Reconsideration
File: B-228244.3
Date: December 31, 1987

DIGEST

Where no solicitation has yet been issued, protest against proposed procurement is premature and, therefore, not for consideration.

DECISION

T.J. O'Brien Company, Inc., requests reconsideration of our dismissal of its protest of Veterans Administration (VA) requisition No. 363102-7216-0411, which was for mailmobiles. We affirm our dismissal.

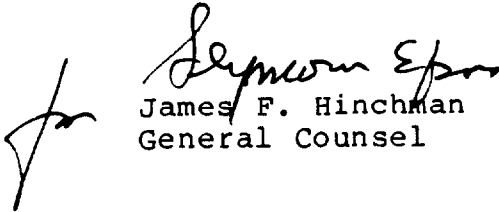
O'Brien initially filed a protest with our Office on September 23, 1987, contending that the requisition restricted competition and exceeded the agency's requirements. We dismissed the protest as untimely that same day pursuant to our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1987), because it appeared from the record before us that the protest was not filed within 10 working days after O'Brien knew or should have known of the basis for its protest. Shortly afterward, O'Brien wrote to complain that its protest was not untimely. On October 7, however, we again dismissed the protest because the VA informed us that the contracting officer did not receive a copy of the protest as required by our Regulations at 4 C.F.R. § 21.1(d). By letter dated October 12, O'Brien furnished our Office with a receipt to show that a copy of its original protest had been timely received by the VA, and requested that we reopen our file. Later, O'Brien submitted to the VA a second copy of its September protest.

The VA, in response to O'Brien's latest filing, states that the person who signed for and received the first copy of the firm's protest is a mailroom employee, and no other person at the VA has seen a copy of the protest. The VA further informs our Office that the solicitation O'Brien complains of is only a request by the VA to the Defense Supply Center to procure the mailmobiles for the VA and that, in fact, no

solicitation has been issued yet. The VA requests that we dismiss the protest.

For the following reason, we find it unnecessary to address the validity of our prior dismissals. Since no solicitation has yet been issued, any protest concerning it is premature. Allied Precious Metals Recycling Co.--Reconsideration, B-227126.2, June 18, 1987, 87-1 C.P.D. ¶ 611. Under our Regulations, we consider protests involving solicitations already issued by federal agencies and awards made or proposed to be made under those solicitations. 4 C.F.R. § 21.1(a). In this case, then, the VA has not done anything that properly can be the subject of a bid protest. See Centronics Sales & Service Corp., B-225514, Dec. 3, 1986, 86-2 C.P.D. ¶ 640.

Our dismissal of O'Brien's protest is affirmed.


James F. Hinchman
General Counsel